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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

WP No.1907 of 2002

1.The Union of India,
Represented by the Chairman,
Railway Board,
New Delhi.

2.The General Manager,
Southern Railway,
Park Town, Chennai-600 003. ... Petitioners

vs

1.The Registrar,
Central Administrative Tribunal,
Chennai Bench,
Chennai- 600 104.

2.Dr.A.Ranganthan
3.The Union of India
Represented by the Secretary to Government
of India,
Ministry of Pension,
Department of Pensions and Pension Welfare,
New Delhi.

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4.The Manager,
Syndicate Bank,
Kodambakkam Branch,
Chennai-600 024. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a writ of Certiorari to call for the entire records of the first respondent in OA No.604 of 2002, the order dated 23.10.2002 and quash the same.

For the Petitioners :Mr.M.Viay Anand

For the Respondents :No appearance-respondents 2 to 4
first respondent-Tribunal

ORDER

(Order of the Court was made by *D.KRISHNAKUMAR, J.)*

Though notice has been served on respondents 2 to 4 and their names have been printed in the cause list, none appeared.

2. The petitioner has filed the writ petition challenging the order passed by the Central Administrative Tribunal in OA No.604 of 2002, dated 23.10.2002.

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3. Brief facts of the case:

3.1. The second respondent was working in the Medical Department in the Ministry of Railways and he retired from service on 31.12.1981 on attaining the age of superannuation. At the time of retirement, the second respondent was entitled to receive pension including Non-Practicising Allowance (NPA for short). When the recommendations of the Fifth Pay Commission were implemented, his pension was revised at Rs.6511/- with other reliefs from 01.01.1996. While so, the Government of India, Department of Personnel, the nodal Ministry No.45/10/98 P & PW(A) dated 17.12.1998 has issued a notification for revision of pension. On the bais of the said notification, on 08.05.2000, the Ministry of Railways has issued a revised pension payment order reducing the pension of the second respondent. According to the second respondent, his earlier fixation alone was correct and he is entitled to 25% of basic pay as non-practicing allowance. Therefore, challenging the revised pension pay order, the second respondent has filed an original application in OA No.604 of 2002 before the Central Administrative Tribunal seeking for the following reliefs:

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(i) To quash the notification of the Government of India, Department of Personnel, the nodal Ministry No.45/10/98 P & PW(A) dated 17.12.1998 as unconstitutional and which had been declared as illegal by the Central Administrative Tribunal, Madras Bench delivered on 31.08.2001 in the batch of OA's coming under OA 1144 of 2001.

(ii) To direct the Syndicate Bank, Kodambakkam Branch, not to give any credence to the directions of the Railway Administration in the matter of recovery of the so called the excess payment of pensionery benefits and to refund if any recovery so made immediately.

(iii) To direct the Government of India, Ministry of Railways to issue the revise pensionary payment order calculating the pension by taking into consideration payment of 25% of the basic pay as NPA as recommended by the Fifth Central Pay Commission and accepted by the Government of India. This enhancement of 25 % NPA has been extended to the medical officers, Ministry of Defence, Ministry of Agriculture who also belong to the same group of pensioners. However the same had not been extended to the applicant when the pensionary benefits were revised on 22.04.1998.

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iv) To consider restoration of original pension as earlier ordered on 22.04.1999 with the addition consequent of the calculation at 25% NPA which has been extended to the similarly placed medical officers in other branches of Government of India.

3.2. The Tribunal has considered the aforesaid prayer as sought by the second respondent and allowed the said OA by order dated 23.10.2002 in the light of the decision rendered by the Division Bench of the Delhi High Court dated 18.05.2002 and granted relief to the second respondent. Assailing the said order, the petitioner authority has filed the present writ petition.

4. Learned counsel for the petitioner authority submitted that the office memorandums dated 17.12.1998 and 29.10.1999 and the re-fixation of pension in respect of central government medical officers were challenged before the principal bench of the Tribunal at New Delhi in OA No.621 of 2000 and batch and the Principal Bench, by order dated 05.12.2000 had held that the memorandum dated 29.10.1999 was perfectly valid and the

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consequent re-fixation of pension was also justified and thus the claims of the medical officers similarly placed as the second respondent were negatived. The said order of the principal bench, New Delhi was challenged by the applicants therein before the Division Bench of the Delhi High Court, by filing WP No.7322 of 2001 and batch. The said writ petitions were allowed by the Division Bench of the Delhi High Court by order dated 18.05.2002 and consequently the original applications filed before the Principal Bench, New Delhi were allowed. Challenging the said order of the Delhi High Court, the administration has filed Special Leave Petition before the Hon'ble Supreme Court of India and the same is pending.

5. Even though learned counsel for the petitioner Authority has stated that as against the order dated 18.05.2022 passed in the writ petition in WP No.7322 of 2001 and batch, they have filed an appeal before Hon'ble Supreme Court, however, there have not placed any relevant material before this Court to establish that the said appeal is still pending before the Hon'ble Supreme Court despite opportunity was granted to the petitioner authority.

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6. In view of the above, we are not inclined to interfere with the order of the Tribunal. Accordingly, we pass the following order:

(i) Insofar as the revised pay scale is concerned, as the order of the Delhi High Court dated 18.05.2002 in WP No.7322 of 2001 and Batch has become final and therefore nothing warrants to interfere with the order of the Tribunal on that count.

(ii) Insofar as the NPA is concerned, the Tribunal has permitted the second respondent to make a representation to the authority for taking into consideration the payment of 25 % of basic pay as NPA. In such circumstances, we make it clear that if the second respondent makes a representation to the petitioner authority, the same shall be considered and appropriate decision shall be taken in accordance with law.

7. With the above clarification, the writ petition stands dismissed. There will be no order as to costs. Consequently, WMP No.2341 of 2022 is closed.

[D.K.K., J.] [P.D.B., J.]
29.11.2023

Index : Yes/No
Neutral Citation : Yes/No
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D.KRISHNAKUMAR, J.
and
P. DHANABAL, J.

(mrn)

To
The Secretary to Government of India,
The Union of India
Ministry of Pension,
Department of Pensions and Pension Welfare,
New Delhi.

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